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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/687,451	10/16/2003	Richard J. Ernst	14303	8743

7590 04/04/2008
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EXAMINER

EPPS, TODD MICHAEL

ART UNIT	PAPER NUMBER
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3632

MAIL DATE	DELIVERY MODE
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04/04/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/687,451	Applicant(s) ERNST ET AL.	
	Examiner Todd M. Epps	Art Unit 3632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period **will** apply and **will** expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply **will**, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 January 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,8,12,26 and 31-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,8,12,26 and 31-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This is the seventh Office Action for serial number 10/687,451, Rod Hanger For Securing A Rod To A Substrate, filed on October 16, 2003.

Withdrawal of Finality

Upon review of the art of record and further consideration, the finality of the rejection of the last Office Action has been withdrawn and the following action on the merits presented below.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2, 8, 12, 26, and 33-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,758,465 to Logue in view of U.S. Patent No. 6,692,206 to Clinch et al. (Clinch).

Logue '465 discloses a rod hanger (fig. 5) comprising a generally planar mounting portion (24) defining a perimeter edge, and having a hole (52) along extending between a top surface (40) and a bottom surface (44) with the hole extending therebetween, a generally planar rod receiving portion (34) with a top surface (42), a

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bottom surface (46) and a hole (60) that includes a lip formation (64) disposed thereabout, and a connecting element (36), wherein the planes of the mounting and rod receiving portions are generally parallel, wherein rod receiving portion configured for threadably receiving the rod, wherein the rod hanger defines a unitary body with generally uniform thickness, wherein the hole of the mounting portion is coincident along the plane, has a radius and defines a circumference of 360 degrees, and wherein the mounting portion has four corners.

However, Logue '465 fails to specifically teach at least four anti-rotation elements on generally planar top surface of the mounting portion plane uniformly spaced from the hole, and wherein four anti-rotation members are configured for penetrating the substrate. Nevertheless, Clinch '206 teaches a mounting portion (figure 5) with a central hole and four hemisphered shape anti-rotation elements (240, 242, 248a+250a, 248b+250b) disposed about the hole and spaced apart from each other by about 90 degrees along the circumference of the hole and dispose proximate to each of the corners of the mounting portion, and wherein four anti-rotation members are configured for penetrating the substrate. Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the hanger of Logue '465 with four anti-rotation elements disposed about the hole and spaced apart from each other by about 90 degrees along the circumference of the hole and dispose proximate to each of the corners of the mounting portion as taught in Clinch '206 wherein doing so would provide for superior rotation prevention means.

Claims 32, 35, and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Logue '465 in view of Clinch '206, and further in view of U.S. Patent No. 6,238,261 to Lang.

Logue '465 in view of Clinch '206 fails to specifically teach wherein at least four anti-rotation members include a resilient cover, is secured by a chemical adhesive, and the resilient cover is formed of a polymer. Nevertheless, Lang '261 teaches wherein a mounting with dimples (36) and each dimple is secured by a resilient cover (40 - plastic). Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the rod hanger of Logue '465 in view of Clinch '206 with four hemisphered shape anti-rotation elements to include the resilient cover on each anti-rotation element as taught by Lang '261 wherein doing so would provide thereof for a protective coating on the anti-rotation members with a superior mounting means.

Furthermore, Logue '465 in view of Clinch '206, and in further view of Lang '261 discloses the previous invention failing to specifically teach wherein the resilient cover is secured by a chemical adhesive coat. Nevertheless, it is well known in the art that a chemical adhesive is being used to attach two components together. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the hemisphered shape anti-rotation elements of Logue '465 in view of Clinch '206, and further in view of Lang '261 to include the adhesive coat as any

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resilient cover will inherently attach the adhesive coat to place on any surface for attachment purpose.

Response to Arguments

Applicant's arguments filed January 11, 2008 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Todd M. Epps whose telephone number is 571-272-8282 – or – whose e-mail address is Todd.Epps@uspto.gov. The examiner can normally be reached on M-F (7:30-4:30).

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/T.M.E./

Todd M. Epps
Patent Examiner
Art Unit 3632
March 28, 2008

/Alfred Joseph Wujciak III/

Primary Examiner, Art Unit 3632